

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-1247-C - ORDER NO. 96-265 ✓
APRIL 11, 1996

IN RE: Application of UStel, Inc., for a) ORDER
Certificate of Public Convenience and) APPROVING
Necessity to Provide Intrastate Resold) CERTIFICATE
Telecommunications Services within the)
State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of UStel, Inc. ("UStel" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1994) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed UStel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of UStel's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. UStel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A hearing was commenced on April 2, 1996, at 11:00 a.m., in

the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. UStel was represented Frank R. Ellerbe, III, Esquire. Catherine D. Taylor, Staff Counsel, represented the Commission Staff.

Randy Lemmo, Operations Manager of UStel, appeared and offered testimony in support of UStel's Application. Mr. Lemmo stated that UStel is a Minnesota corporation which is registered to do business in South Carolina as a foreign corporation. According to Mr. Lemmo, UStel proposes to offer long distance services using resold transmission services of carriers certificated to carry traffic in South Carolina. Mr. Lemmo explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. The record reveals the Company's services, operations and marketing procedures.

Mr. Lemmo also explained that UStel possesses the technical, financial and managerial abilities to provide its services in South Carolina. Mr. Lemmo further testified that the Company would make certain changes to its proposed tariff to comply with Commission guidelines and prior Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. UStel is incorporated under the laws of the State of Minnesota and is licensed to do business as a foreign corporation

in the State of South Carolina by the Secretary of State.

2. UStel operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. UStel has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to UStel to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for UStel for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. UStel shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. UStel shall file its proposed rate changes, publish its notice of

such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1995).

4. UStel shall file its revised maximum tariff and an accompanying price list within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. UStel is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. UStel shall resell the services of only those

interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If UStel changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, UStel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. UStel shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE